

FORCE

Kingsley v. Hendrickson, --- U.S. --- (2015)

Decided June 22, 2015

FACTS: In April, 2010, Kingsley was booked into the Monroe County Jail (Sparta, Wisconsin) and housed in a cell block as a pretrial detainee. When he refused to follow an order by a correctional officer several times, he was issued a warning of a minor violation and potential disciplinary action, which was reported to Sgt. Hendrickson. In the process, he was going to be removed from his cell temporarily to remediate the problem that had triggered the violation. When he was ordered to comply with the removal, he objected and refused to get up, lying facedown on his bunk with his hands behind his back. Sgt. Hendrickson and Deputy Blanton entered to handcuff him, and he resisted by tensing his arms. He was handcuffed but still refused to get up. They pulled him to his feet and he “then fell to his knees,” claiming that his feet had been smacked against the bedframe and that the pain “was so severe that he could not walk or stand.” He was carried out of the cell and placed facedown in the hallway, where he refused to explain his alleged foot injury. So he was then taken to the new cell and placed facedown on the bunk. There was another struggle when, the officers alleged, they tried to take the cuffs off, and during which Kingsley argued they “smashed his head into the concrete bunk.” Video of the situation was inconclusive because of the angle of the camera. Ultimately, Kingsley was Tased and the cell was cleared of all officers. 15 minutes later, they returned and removed the handcuffs, apparently without resistance. He was medically evaluated but refused the offer of a nurse.

In December, 2010, Kingsley brought suit under 42 U.S.C. §1983, arguing excessive force against Hendrickson and Deputy Jailer Degner, as well as claims against five other staff members. The trial court noted that “the case law that held that it was reasonable to use force against an inmate who refused to comply with orders but concluded that the issue in the case was “whether [the] defendants’ response to plaintiff’s obstinacy was reasonable under the circumstances or whether it was excessive and was intended to cause [the] plaintiff harm.” Further, the Court noted, qualified immunity was not appropriate at this state, and although the Court agreed that the Fourteenth Amendment “shocks the conscience” standard was the proper one in this case, it applied the Eighth Amendment excessive force standard. Only Hendrickson and Degner remained in the case, however, as the claims against the other five were dismissed and not appealed.

At trial, both Hendrickson and Degner were found not liable, and Kingsley appealed, based upon the jury instructions, which he claimed were flawed. The U.S. Seventh Circuit Court of Appeals began with “a claim of excessive force, like the one at issue here, is, at bottom, one that seeks to impose liability for “physically abusive governmental conduct.”¹ However, depending upon the circumstances, different Amendments are implicated. The Fourth Amendment applies to seizures, while the “the Eighth Amendment applies when, following the constitutional guarantees of our criminal process, there has been an adjudication of guilt and an imposition of sentence.”²

However, in between “the status of arrestee and sentenced prisoner is the intermediate status of the detainee, who similarly is entitled to protection from physically abusive government conduct.” In that situation, “The constitutional source of that protection lies in the right to be free from

¹ Graham v. Connor, 490 U.S. 386 (1989).

² Ingraham v. Wright, 430 U.S. 651 (1977).

deprivations of liberty without due process of law.”³ In Kingsley’s situation, as a “pretrial detainee,” the “Fourteenth Amendment’s Due Process Clause is the source of his substantive right and determines the applicable standards to evaluate his claim.” The Seventh Circuit agreed that the Due Process Clause of the Fourteenth Amendment provides broader protections than the Eighth Amendment, and does not permit treatment of a prisoner that would equate to punishment. The Court noted that the question is “whether a particular action was taken “for the purpose of punishment or whether it is but an incident of some other legitimate governmental purpose.” Such conduct must be more than simply negligent, however, but must rise to at least recklessness. Courts have struggled, however, with how to practically apply the difference since “the Supreme Court has not yet determined just how much additional protection the Fourteenth Amendment gives to pretrial detainees.”

The Seventh Circuit stated that:

Where, as here, force is employed in the course of resolving a disturbance, the pertinent inquiry is whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm. Factors relevant to that inquiry include whether jail officials perceived a threat to their safety and the safety of other inmates, whether there was a genuine need for the application of force, whether the force used was commensurate with the need for force, the extent of any injury inflicted, and whatever efforts the officers made to temper the severity of the force they used.⁴

The court continued that the basic point in *Bell* is that “the central inquiry relevant in a Fourteenth Amendment case brought by a pretrial detainee is whether the state punished him—as opposed to whether it had merely held him, restricted him, or applied a measure of force in a manner consistent with and expected of constitutional restraints on liberty prior to trial.”

The Court noted that “the existence of intent—at least recklessness—is a requirement in Fourteenth Amendment excessive force cases.” The non-exhaustive list of factors given to the jury to consider was “drawn almost verbatim” from *Wilson v. Williams*.⁵ The Court had previously agreed that “some harm” was necessary in such cases, and there was no argument presented that tasing was a “harm per se.” The Court agreed that the jury instructions were adequate and upheld the dismissal. Kingsley applied for certiorari to the U.S. Supreme Court, which granted review.

ISSUE: What standard should be applied to evaluate the legality of a use of force against an incarcerated pre-trial detainee?

HOLDING: Objective reasonableness

DISCUSSION: The Court began by noting there were “in a sense, two separate state-of-mind questions” in this case. First concerns the defendant’s state of mind with respect to his “physical acts” and the “physical consequences in the world, the other with whether the use of force was “excessive.” The court noted that no one denied that a series of physical acts involved were

³ *Bell v. Wolfish*, 441 U.S. 520, 535 & n. 16, 99 S.Ct. 1861, 60 L.Ed.2d 447 (1979).

⁴ See also *Forrest v. Prine*, 620 F.3d 739 (7th Cir.2010); *Lewis v. Downey*, 581 F.3d 467(7th Cir.2009).

⁵ 83 F.3d 870 (7th Cir.1996).

deliberate in this case, and the officers in this case did not dispute that they used force purposefully and knowingly, not accidentally or negligently.

That left the question – “the defendant’s state of mind with respect to the proper interpretation of the force (a series of events in the world) that the defendant deliberately (not accidentally or negligently) used.” In deciding such, the Court had to decide whether it should use an objective standard or a subjective standard. The Court agreed that with respect to that question, “courts must use an objective standard” – and that a “pretrial detainee must show only that the force purposely or knowingly used against him was objectively unreasonable.”

Using that standard, however, the Court cautioned, cannot be mechanically done. Instead, it must be determined “from the perspective of a reasonable officer on the scene, including what the officer knew at the time, not with the 20/20 vision of hindsight.”⁶ In the jail environment, the Court must also look at the need to manage the facility and “preserve internal order and discipline and to maintain institutional security.”⁷

In addition:

Considerations such as the following may bear on the reasonableness or unreasonableness of the force used: the relationship between the need for the use of force and the amount of force used; the extent of the plaintiff’s injury; any effort made by the officer to temper or to limit the amount of force; the severity of the security problem at issue; the threat reasonably perceived by the officer; and whether the plaintiff was actively resisting. We do not consider this list to be exclusive. We mention these factors only to illustrate the types of objective circumstances potentially relevant to a determination of excessive force.

The Court agreed that the “appropriate standard for a pretrial detainee’s excessive force claim is solely an objective one.” The Court agreed that pretrial detainees are protected from a use of force “that amounts to punishment.” Even without an “expressed intent to punish,” actions that are not “rationally related to a legitimate nonpunitive government purpose” or that appear excessive, are prohibited.⁸

The Court agreed that such a standard is “workable” – and in fact consistent with other cases involving officers and a use of force – and that it “adequately protects an officer who acts in good faith.” The Court agreed that an “an objective standard is appropriate in the context of excessive force claims brought by pretrial detainees pursuant to the Fourteenth Amendment.”

The court vacated the decision of the Court of Appeals and remanded the case.

FULL TEXT OF OPINION: http://www.supremecourt.gov/opinions/14pdf/14-6368_m6hn.pdf

⁶ Graham v. Connor, 490 U. S. 386 (1989).

⁷ Bell v. Wolfish, 441 U. S. 520 (1979).

⁸ See also Block v. Rutherford, 468 U. S. 576 (1984).